Enacting Formula

SHRI SHARAD PAWAR: Sir, I beg to move:

1. That at page 2, line 1, *for* the word "Fifty-sixth", the word "Fifty-ninth" be *substituted.*

The question was put and the motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Preamble and the Title were added to the Bill.

SHRI SHARAD PAWAR: Sir, I beg to move:

That the Bill, as amended, be passed.

The question was put and the motion was adopted.

The Gram Nyayalayas Bill, 2008

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): Mr. Deputy Chairman, Sir, I beg to move:

"That the Bill to provide for the establishment of Gram Nyayalayas at the grass-roots level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto be taken into consideration."

Sir, I would like to give a background of this Bill in brief. As you are all aware, this House has discussed, many a times, the question of denial of justice to the poor citizens of this country, particularly to the under-privileged sections, women, children, minorities and others. So, for a long time, this debate has been going on in the country on how to provide speedy, inexpensive and substantial justice to our people. Sir, we have been trying our best to improve the legal system. Yesterday, we debated the problem of arrears. Time and again, discussion has taken place, but, because of financial considerations or cost-effective justice, the States have not been able to cope with the problem of providing speedy and inexpensive justice to our women, children and working classes. Some experiment was made in the State of West Bengal. They brought ADR and conciliation, but because of political reasons there was opposition to it, and they could not enforce it. But the fact remains, in our system this kind of change for disposal of cases is required. We should not bring politics into it We have promised to our people that justice will be speedier and inexpensive. How to do it? So, a joint effort is required at the Central and State levels. I myself went to Kolkata and supported that move despite political opposition. But, unfortunately, we could not provide block level arbitration, conciliation, and mediation. Then I had two meetings with the Law Ministers of the States. In both the meetings, the same demand came that we need money and we need the support of the Centre. They also stated that the Centre must share the responsibility in addition to having fast track courts. The Government of Shri Atal Bihari Vajpayee started fast track courts and the effect was that the number of session trials came down. When we found that they were doing a good work, we

got the sanction from the present Government to extend the term of additional fast track courts up to 2010 in order to wipe out the arrears. I am very happy to state that out of 28 lakh cases, 21 lakh cases have been wiped out by the fast track courts. Now there were requests from the States, unanimous requests from all the States, that we need support in magisterial courts. As you know, the magisterial courts are appointed by the State Government in consultation with high courts. I called another meeting of the Registrar General and the Law Secretaries of the States to fine-tune this law and had their views before bringing this Bill in Parliament. It is based on the report of the Law Commission. We wanted that they should provide speedy justice. There is no use dragging the litigation because there is a procedural majesty in the English Law, the Common Law which Lord Macaulay and Stephen gave to us. We are so fascinated with those laws, but nothing has been done in the rural areas. I am very upset with this. I have been Law Minister of this country thrice, and the country gave me this opportunity. But when I found nothing moved in the rural areas, and I see the condition in which the peasantry works, the working class works, I have been able to persuade my Prime Minister to help me in this. Now, through this, we must send at least 3,000 judges, and I would like to clarify to the hon. Members of this House that they will be First-Class Magistrates. We are merely using the words *'Nyaya Adhikari'.* The literal translation of *Nyaya Adhikari* is judicial officer, if I am correct in the translation. And, *Gram Nyayalaya* is also a Hindi word. These two words have caused confusion in the minds of some of the hon. Members. I am removing this confusion and would like to say that there should not an impression in their minds that there will be laypersons acting as judges. They are strictly 'Judicial Officers'. They will be drawing the same salary, deriving the, same powers, as the First-Class Magistrates working under the High Courts, once they are appointed. So, this is a Bill in which the Central Government will pay 100 per cent cost on capital account at the rate of Rs.20 lakhs per court, and it will give an amount of Rs.6.4 lakhs per court towards its recurring expenditure.

I would like to state the reasons why we have gone in for it. Now, if you look at the scheme of things, everything is in the urban areas. I am not against it. In urban areas also people live. But people in these far-flung areas, where there are peasants and working class groups, have no money in their pockets. They travel long distances, leaving their work at the work sites or in the fields, to the District Courts or the Taluka Courts, to attend to their litigation. So, I am moving the courts to the villages. This is at the intermediate level of the Panchayats, and this will reduce the distance. It is my own experience as a lawyer and as a Minister that if an innocent villager has a case against him, he takes 10 more with him to help him in getting the assistance. There are certain constraints which a common man faces. We do feel for them. We have sympathies for them. But we have done nothing for them. And, this is the first step. Secondly, I am putting the cost of litigation not on the litigants, but the State will bear the expenditure of legal aid as well. That is, if persons, who have been prosecuted against, and who have to defend their cases, cannot afford a lawyer, then, it shall be the duty of the court to provide legal aid, that is, lawyers, to the individuals. So, it is a first revolutionary measure in the country that these Courts will sit at the headquarters of the districts and *talukas*. They will be going in a bus or a jeep to the village,, work at the village, and dispose of their cases. There is some misunder-standing about summary trials. Let me tell you that a summary trial does not mean that the principle of natural justice will be given a go-by. We are governed by article 21 of the

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Constitution which provides that any procedure, which deals with the natural liberty of the citizens, shall be reasonable and fair; particularly, after Maneka Gandhi's case, several decisions have come. You cannot deny the principle of natural justice and the opportunity of cross-examination. And we have given the schedule of offences and schedule of cases which will be dragged. Now, this will help our country that, for the first time, the villagers will not have to travel; the courts will travel. And, as an experiment, I have started one or two mobile courts in the Mewat area of Haryana and one or two courts in Punjab; the Punjab Government has also started it. The judges and their staff will travel in air-conditioned buses to the places where the Court is to be set up. Sufficient publicity is given by the Government to inform the people that at such and such places, these Courts will be set up. Sir, if this spreads out, there will be Utopia in the country. This should take place in the country. This is my own view. And, I wish that this Bill should find the full support of this House so that much more can be done for the poorer sections of the people in the future. So, I commend this Bill for the consideration of this august House.

The question was proposed.

MR. DEPUTY CHAIRMAN: Now, Shri Ahluwaliaji. ...*(Interruptions)*...

श्री ललित किशोर चतुर्वेदी (राजस्थान): महोदय, पांच बज गए हैं।

श्री उपसभापति: अहलुवालिया जी, आप शुरू करें, पांच मिनट बोलने के बाद हाऊस adjourn कर देंगे। ...*(Interruptions)*...

SHRI S.S. AHLUWALIA (Jharkhand): Mr. Deputy Chairman, Sir, I am here to speak on the Gram Nyayalaya Bill, 2008. Our founding fathers had given certain commitments to the people of this country, and later on, when the Constitution was amended, I remember, in 1977 by the 42nd Amendment, article 39 was further amended and made 39(A). It is about equal justice and free legal aid. It says, "The State shall secure that the operation of the legal system promotes justice on the basis of equal opportunity and shall in particular provide free legal aid by suitable legislation or a scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities." Not only that, Sir. It was added in the Seventh Schedule, the Concurrent List, List III, 11 (A). It states, "Administration of justice, constitution and organisation of all courts, except the Supreme Court and the High Courts." I think, on the basis" of these two, one is the Concurrent List and the other is article 39(A), with that intention, the hon. Minister has come to the House with this Bill. I must congratulate the hon. Minister for bringing in this revolutionary Bill, but, of course, with certain question marks.

Sir, the idea for a Bill was mooted on the basis of the Law Commission's 114th Report by Justice D.A. Desai, which was submitted to Shri Ashok Kumar Sen, the then Minister of Law and Justice, on 12th August, 1986. Since then, many Governments came and went, but nobody thought about it. But, a process was started under Justice Sohoni Committee, constituted by the Government of Madhya Pradesh on Gram Nyayalayas. Sir, when Justice Sohoni Committee started, they wanted to bring it as a Gram Nyayalaya because in the ancient system, even during the days of Kautilya, under

the Kautilya's jurisprudence, the people of rural areas were also getting justice. But, when the framers of our system switched over, as the hon. Minister was narrating, I mean, the Criminal Procedure Code, Indian Penal Code and the Civil Procedure Code, all were taken from Britain and they adopted the essence and spirit of British Criminal Jurisprudence. We have forgotten Kautilya's jurisprudence, and we have shifted to a new area, a new system. That is why he took two minutes' time to explain what is a *Nyaya Adhikari* and is a Magistrate. I am not confused on that basis because I know there is a *Danda Adhikari* also. ...*(Interruptions)*... Yes, *Danda Adhikari*. I believe that *nyaya* was started in the entire universe. *Nyaya* was started from churches. It was started from religious places and places of worship. At that time, *Dharmadhikari* was there. With the passage of time, with the progress in society, in the modern age, we switched over to different types of jurisprudence. But, still we call the Supreme Court judge, *Nyayamurti*. Why do we call him a *Nyayamurti*? He may not be *'Murti,'* he may be a 'Singh, Bhardwaj, Ahluwalia or Narayanasamy.' Why do we call him *Nyayamurti*? We call him *Nyayamurti* because it symbolises a religion. A *nyaya* is a *dharma*. And, to protect the essence and spirit of that *dharma*, our founding-fathers and framers of our Constitution provided certain things.

Sir, time is over now. I will continue my speech tomorrow.

MR. DEPUTY CHAIRMAN: Okay. The House stands adjourned to meet tomorrow at 11.00 a.m.

The House then adjourned at six minutes past five of the clock till eleven of the clock on Wednesday, the 17th December, 2008.